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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,610

05/01/2007

Ivo Westhovens

UDL-137

1585

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EXAMINER

DESAI, KAUSHIKKUMAR A

ART UNIT

PAPER NUMBER

3788

MAIL DATE

DELIVERY MODE

09/07/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,610	Applicant(s) WESTHOVENS ET AL.	
	Examiner KAUSHIKKUMAR DESAI	Art Unit 3788	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-6 and 8-36 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-6 and 8-36 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/2006;10/13/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17[e], was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17[e] has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/11/2010 has been entered.

2. Applicant response has been received and its contents have been carefully considered.

Claim 7 is cancelled.

Claims 1 and 8 are amended.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1-6, 8-14, 17, 20, 24, 28-32, 35 are rejected under 35 U.S.C. 103[a] as being unpatentable over US 2003/0164318 to Lacasse et al. in view of US 6691885 to Brown.

1, 12: Lacasse discloses a container [figs 1-3] for transportation and storage of items comprising an enclosure [Fig. 2] having an access arrangement providing access

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by means of an uppermost portion [open top, fig 2] and an access permitting end portions [fig 2] bounded by a corner [top] of the container; a securing arrangement comprising an upright restraints 22/24 that are configured to be advanced [Fig, 2] and retracted [Fig, 3] across the width of the container for supporting long, irregularly shaped bulk products in an upright orientation [e.g. Fig. 2]. Lacasse further comprises movable side panels [16 and 14] proximate access permitting end portions.

Lacasse discloses the claimed invention as discussed above with the exception of the following claimed limitation that is taught by Brown.

Brown teaches movable side panel [90, fig 2] being pivotable about a pivot mounting [fig 12] spaced apart from the corner [top] of the container to render open a said access [fig 2] permitting end portion [fig 3] of the container at said corner. Brown suggests retention and transportation of bulk products in the stackable container with easy access from top and side [figs 1-3, column 1:11-17]. It would have been obvious to one of ordinary skill in the art to provide Lacasse container with the pivotable side panels as taught by Brown to keep side panels secured to the frame.

2: Lacasse/Brown discloses that the container is of frame construction [fig 1].

3: Lacasse/Brown discloses that the container has one or more openable ends [figs 2, 3].

4: Lacasse/Brown discloses that the container has a closed end panel [fig 1].

5: Lacasse/Brown discloses that the container has an openable top [fig 2].

6: Lacasse/Brown discloses that the side panel [14 and 16] proximate the access permitting end of the container is movable to open the end side portion of the container [fig 2].

8. Lacasse/Brown discloses that the side panels [14, 16] on opposed sides of the container [fig 1] are pivotable about respective pivot mountings spaced apart from respective comers [fig 12] movable to open respective end side portions of the container.

9: Lacasse/Brown discloses that the movable side panels [14, 16] on opposed sides of the container are positioned proximate opposed ends of the container [fig 1].

10: As readily apparent in Figure 1, Lam discloses frame openings on the lower portion F of the container for receiving tines of a lifting apparatus (page 4, 2nd paragraph).

11: Lacasse teaches formations on its upper and lower portions (see Fig. 5) for stacking purposes.

13, 14: The claim does not invoke the provisions of 35 USC 112, 6th paragraph. Lacasse discloses support means 36/38.

17, 20, and 24: Lacasse discloses contact members 32/34, which are reorientatable with respect to the container [Figs. 2 & 3].

28: Lacasse discloses securing element 36/38 arranged to lie in engagement with the underside of the items [Fig. 2].

29-32: Lacasse discloses glass sheets 30. Provision of a second container would entail a mere duplication of parts and would have been obvious to one of ordinary skill in the art in order to provide more items with the ability to ship to different locations.

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It has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 [CCPA 1960].

4. Claims 25-27 and 34 are rejected under 35 U.S.C. 103[a] as being unpatentable over Lacasse/Brown as applied to claim 1 above, and further in view of US 3,963,122 to Pater et al..

Lacasse/Brown as applied to claim 1 above discloses the claimed invention with the exception of the slide elements.

Pater teaches the provision of slide elements 50 on opposite sides of an upright restraint near the end portions of the container [Fig. 1] and having friction reducing surfaces 62 for engagement with the sides on a retained article to prevent longitudinal motion during transit [e.g. Col. 5:5-9], and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the assembly of Lacasse/Brown with slide elements as taught by Pater.

5. Claims 15-19, 21, 28-30 and 32 are rejected under 35 U.S.C. 103[a] as being unpatentable over Lacasse/Brown as applied to claim 1 above, in view of US 4,278,171 to Millhoan.

15, 16: Lacasse/Brown discloses the claimed invention as discussed above with the exception of the following claimed limitation that is taught by Millhoan.

Millhoan teaches lock arrangement 50/52 [Fig. 2] for locking the upright restraint at a selected position across the width of the container. It would have been obvious to one of ordinary skill in the art to provide Lacasse container with lock arrangement as taught by Millhoan to keep the upright restraint at a selected position across the width of the container secured to the frame.

17-19, 21: Millhoan discloses contact members 53/55 with adjustment arrangement 50/52. It is noted that Millhoan appears to present a typographical error in describing the cushions as items 52 and 54 [Col. 3:52-54], since items 52 and 54 are previously defined as a bolt and pin. The cushions are presumed to be items 53 and 55 as depicted in Figure 4.

28: Millhoan discloses securing element 34 arranged to lie in engagement with the underside of the items [Fig. 2].

29, 30, and 32: Millhoan discloses glass sheets 20. Provision of a second container would entail a mere duplication of parts and would have been obvious to one of ordinary skill in the art in order to provide more items with the ability to ship to different locations. It has been held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 [CCPA 1960].

6. Claims 22 and 23 are rejected under 35 U.S.C. 103[a] as being unpatentable over Lacasse/Brown/Millhoan as applied to claim 17 above, and further in view of Kitagawa et al [US 5,145,073].

Lacasse/Brown/Millhoan as applied to claim 17 above, discloses the claimed invention with the exception of the contact member on the container. However, Kitagawa teaches the provision of a contacting cushion 60 on the container to prevent the retained sheets from contacting the frame of the container, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the container of Lacasse/Brown/Millhoan with contacting members as taught by Kitagawa.

Response to Arguments

7. Applicant's arguments with respect to claims 1-6, 8-32 and 34-36 have been fully considered but are moot in view of the new ground[s] of rejection.

Conclusion

8. Prior Art not relied upon: See attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAUSHIKKUMAR DESAI whose telephone number is (571)270-7290. The examiner can normally be reached on Monday- Friday 7:00 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Pickett can be reached on 571-272-4560. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. D./
Examiner, Art Unit 3788
Thursday, August 25, 2011.

/David T. Fidei/
Primary Examiner, Art Unit 3788